

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: NATIONAL FOOTBALL
LEAGUE PLAYERS' CONCUSSION
INJURY LITIGATION

Kevin Turner and Shawn Wooden,
*on behalf of themselves and
others similarly situated,*

Plaintiffs,

v.

National Football League and
NFL Properties LLC,
successor-in-interest to
NFL Properties, Inc.,

Defendants.

THIS DOCUMENT RELATES TO:
ALL ACTIONS

No. 2:12-md-02323-AB

MDL No. 2323

Hon. Anita B. Brody

Civ. Action No. 14-00029-AB

**CO-LEAD CLASS COUNSEL'S REPLY IN RESPONSE TO FRED WILLIS'
OPPOSITION AND IN FURTHER SUPPORT OF MOTION FOR INJUNCTION
PROHIBITING IMPROPER COMMUNICATIONS WITH THE CLASS BY
CLASS MEMBER, FRED WILLIS, THROUGH HIS ORGANIZATIONS,
NFL PLAYERS BRAINS MATTER™, HPN NEUROLOGIC®, AND
HPN CONCUSSION MANAGEMENT®, OR OTHERWISE**

Co-Lead Class Counsel respectfully submit this Reply in Response to Fred Willis' Opposition [ECF No. 7239] ("Opposition") and in further support of their motion for an injunction prohibiting Class Member Fred Willis ("Willis") from issuing improper communications to the Class, including through his Organizations NFL Players Brains Matter™, HPN Neurologic®, and HPN Concussion Management®, or Otherwise [ECF No. 7175]. Willis'

Opposition neither denies nor attempts to explain in any meaningful way the outright falsehoods he included in the email he disseminated to the Retired NFL Football Player community on February 8, 2017.¹

Willis' claim at paragraph 1 of his Opposition that his organizations, HPN Concussion Management® and HPN Neurologic®, “do not have anything to do with the NFL Concussion Lawsuit” falls flat in light of the fact that his February 8th email purportedly about the Settlement clearly was designed to drive traffic to his organizations' websites and to urge Retired NFL Football Players to sign up with “NFL Player Friendly Brains Matter Fast Track Team,” as well as to sign up for HPN (High Performance Neurofeedback) treatment. The email mischaracterized the NFL Players Brains Matter Fast Track Team as a Retired Player's “**only option** to get a ‘Qualifying Diagnosis.’” Seeger Decl., Ex. A [ECF No. 7175-3] at 9 (emphasis in original). The email also touted that “Our Unique Approach Includes Treatment for Post-Concussion Syndrome,” and referred to the clinical trial study of the efficacy of HPN treatment. *Id.* at 12.

Further, by clicking on the hyperlink of the “NFL Player Friendly Brains Matter Fast Track Team,” a user was taken to Willis' www.NFLPlayersBrainsMatter.com website, with the header of Willis' organization, HPN Concussion Management®. *See* Seeger Decl., Ex. B [ECF No. 7175-4] at 2. Additionally, Willis promised that a Retired NFL Football Player's participation in the “NFL Player Friendly Brains Matter Fast Track Team” program will “bring about” six results, including “1) Qualifying Diagnosis,” “4) NFL Concussion Lawsuit,” and “6) HPN Treatment.” *Id.* at 10-15. Even if, as Willis alleges, these organizations providing HPN

¹ This email was previously available at <http://us3.campaign-archive2.com/?u=5970239c236f408d79ebacc7a&id=2e3f0bdbf6&e=d468cdfb8b>. This link has now been disabled. The content of Willis' February 8, 2017 email is reproduced in Exhibit A of the February 21, 2017 Declaration of Christopher A. Seeger [ECF No. 7175-3].

treatment were founded in 2012, before the Settlement, that does nothing to alter the salient fact that Willis' email was designed, in part, to encourage players to get HPN treatment from his organization.

Moreover, irrespective of Willis' possible business motivations for sending the email, what is most concerning is the confusion that Willis may have caused in leading Retired NFL Football Players to believe that Willis' "NFL Player Friendly Brains Matter Fast Track Team" could, at this juncture, provide Qualifying Diagnoses under the Settlement. They cannot. At this point, post-Effective Date, Qualifying Diagnoses can be made *only* by BAP Providers and MAF Physicians. Also very troubling is the fact that Willis misrepresented that the BAP Providers and MAF Physicians are controlled by the NFL. They are not.

Additionally, Class Counsel do not dispute that Willis contacted the BAP Administrator, Garretson Resolution Group ("GRG") and identified himself as a player advocate and that GRG representatives spoke with him regarding how the BAP was going to work, consistent with the FAQs on the Settlement website. *See* Opposition ¶ 3. There was *no* discussion, however, as to any specific providers who would be serving as BAP Providers or MAF Physicians. *See* attached Declaration of Jon Pascal from GRG. Thus, Willis' representation in his email that "[o]ur Doctors are BAP approved" was unfounded and a false statement. At the time that Willis spoke with the BAP Administrator, the identities of the providers who will be serving as BAP Providers and MAF Physicians had not been finalized. Again, this misrepresentation may have misled Class Members into signing up with Willis' NFL Player Friendly Brains Matter Fast Track Team under the false impression that Willis' doctors could provide Retired NFL Football Players with Qualifying Diagnoses at this point. They cannot.

Finally, the purpose of Co-Lead Class Counsel's motion was not to interfere with Willis' right to lawfully conduct business or with his business contractual relationships, as he claims in his Opposition. *See* Opposition ¶¶ 4-5. Rather, as plainly stated in their opening memorandum, the purpose of Co-Lead Class Counsel's motion is to make the Court aware of Willis' flagrant misrepresentations, so that the Court can assess whether (1) the confusion he may have caused warrants a curative notice and (2) it is appropriate to restrain Willis going forward.

To further aid the Court in making those determinations and in determining whether any other action is appropriate, Co-Lead Class Counsel is also seeking the Court's authorization to take discovery to reveal (a) whether any Class Members have signed up for Willis' NFL Player Friendly Brains Matter Fast Track Team, so that those Retired NFL Football Players can be advised as to the appropriate means to obtain a Qualifying Diagnosis at this point; and (b) whether Willis is being used as a front by lawyers, litigation funders, or both, so that this Court can take any other action it deems appropriate.

Dated: March 6, 2017

Respectfully submitted,

/s/ Christopher A. Seeger
Christopher A. Seeger
SEEGER WEISS LLP
77 Water Street
New York, NY 10005
Phone: (212) 584-0700
cseeger@seegerweiss.com
Co-Lead Class Counsel

Sol Weiss
ANAPOL WEISS
One Logan Square
130 N. 18th St. Ste. 1600
Philadelphia, PA 19103
Phone: (215) 735-1130
sweiss@anapolweiss.com
Co-Lead Class Counsel

CERTIFICATE OF SERVICE

It is hereby certified that a true and correct copy of the foregoing reply, along with the accompanying declaration, was served electronically via the Court's electronic filing system on the date below upon all counsel of record in this matter. True and correct copies of the foregoing were served via certified mail, return receipt requested, and via Federal Express, overnight delivery, upon Fred Willis, who is not on the ECF service list for this MDL. Mr. Willis is being served at the address that was provided when he registered for Settlement benefits.

Dated: March 6, 2017

/s/ Christopher A. Seeger
Christopher A. Seeger